***If you have any questions regarding this report, please contact SBA's FOIA Chief Oreoluwa Fashola at oreoluwa.fashola@sba.gov.***

# Content of Fiscal Year 2020 Chief FOIA Officer Reports

# (High-Volume Agencies)

**Eric S. Benderson, Associate General Counsel for Litigation & Claims, Office of General Counsel**

**(SBA Chief FOIA Officer)**

## Section I: Steps Taken to Apply the Presumption of Openness

*The guiding principle underlying DOJ's FOIA Guidelines is the presumption of openness.*

*Please answer the following questions in order to describe the steps your agency has taken to ensure that the presumption of openness is being applied to all decisions involving the FOIA. You may also include any additional information that illustrates how your agency is working to apply the presumption of openness.*

**A. FOIA Leadership**

1. The FOIA requires each agency to designate a Chief FOIA Officer who is a senior official at least at the Assistant Secretary or equivalent level. Is your agency's Chief FOIA Officer at or above this level?

Yes

2. Please provide the name and title of your agency's Chief FOIA Officer.

Eric S. Benderson, Associate General Counsel for Litigation & Claims, Office of General Counsel

**B. FOIA Training**

3. Did your FOIA professionals or the personnel at your agency who have FOIA responsibilities attend any FOIA training or conference during the reporting period such as that provided by the Department of Justice?

Yes.

4. If yes, please provide a brief description of the type of training attended or conducted and the topics covered.

SBA staff also attended the following DOJ sponsored training;

The Freedom of Information Act for Attorneys and Access Professionals

FOIA Refresher

In addition SBA FOIA internal training was provided to staff with FOIA responsibilities.

5. Provide an estimate of the percentage of your FOIA professionals and staff with FOIA responsibilities who attended substantive FOIA training during this reporting period.

100%

6. OIP has directed agencies to "take steps to ensure that all of their FOIA professionals attend substantive FOIA training at least once throughout the year." If your response to the previous question is that less than 80% of your FOIA professionals attended training, please explain your agency's plan to ensure that all FOIA professionals receive or attend substantive FOIA training during the next reporting year.

N/A

**C. Outreach**

7. Did your FOIA professionals engage in any outreach or dialogue with the requester community or open government groups regarding your administration of the FOIA? Please describe any such outreach or dialogue, and, if applicable, any specific examples of how this dialogue has led to improvements in your agency's FOIA administration.

Yes. A member of SBA's full-time FOIA staff represented the agency at the Chief FOIA Officers Council Meeting. The Chief FOIA Officers Council Meetings are well attended by journalists and members of the public. During these meetings, SBA personnel have discussed Open Government progress with the requester community.

**D. Other Initiatives**

8. Describe any efforts your agency has undertaken to inform non-FOIA professionals of their obligations under the FOIA. In 2016, the Department publicized FOIA-related performance standards for employees that have any role in administering the FOIA, including non-FOIA professionals. Please also indicate whether your agency has considered including FOIA-related performance standards in employee work plans for employees who have any role in administering the FOIA.

The FOIA Office in partnership with the Office of General Counsel provided training to SBA HQ and field staff in July 2019. There have been preliminary discussions with Senior Management of including FOIA related performance standards.

9. If there are any other initiatives undertaken by your agency to ensure that the presumption of openness is being applied, please describe them here.

No additional initiatives.

## Section II: Steps Taken to Ensure that Your Agency Has an Effective System in Place for Responding to Requests

*DOJ's FOIA Guidelines emphasize that "[a]pplication of the proper disclosure standard is only one part of ensuring transparency. Open government requires not just a presumption of disclosure, but also an effective system for responding to FOIA requests." It is essential that agencies effectively manage their FOIA program.*

*Please answer the following questions to describe the steps your agency has taken to ensure that the management of your FOIA program is effective and efficient. You should also include any additional information that that describes your agency's efforts in this area.*

1. For Fiscal Year 2019, what was the average number of days your agency reported for adjudicating requests for expedited processing? Please see Section VIII.A. of your agency's Fiscal Year 2019 Annual FOIA Report.

27 Days

2. If your agency's average number of days to adjudicate requests for expedited processing was above ten calendar days, please describe the steps your agency will take to ensure that requests for expedited processing are adjudicated within ten calendar days or less.

Follow-up with OGC and program offices 5 days after assignment of request to ensure response to any request for expedited processing are timely met within 10 days.

3. During the reporting period, did your agency conduct a self-assessment of its FOIA program? If so, please describe the methods used, such as reviewing Annual Report data, using active workflows and track management, reviewing and updating processing procedures, etc.

Note: In September 2017, OIP released a FOIA Self-Assessment Toolkit as a resource for agencies conducting a self-assessment of their FOIA program. The Toolkit is available on OIP's website for all agencies to use.

Yes. The agency's full-time FOIA staff routinely conducts self-assessments of the program to determine timeliness and quality of the agency's responses. The FOIA team creates custom weekly management reports in the FOIAonline system to assess the timeliness of the agency's responses. More qualitative assessments are achieved by review of all SBA components' final responses. We continuously streamline processes related to intake and assignment, clarification of new requests, and FOIA fee assessment.

4. The FOIA Improvement Act of 2016 requires additional notification to requesters about the services provided by the agency's FOIA Public Liaison. Please provide an estimate of

the number of times requesters sought assistance from your agency's FOIA Public Liaison during FY 2018 (please provide a total number or an estimate of the number).

Approximately - 200

5. Please describe the best practices used to ensure that your FOIA system operates efficiently and effectively and any challenges your agency faces in this area.

FOIA staff routinely check FOIAonline and report any issues to the helpdesk.

## Section III: Steps Taken to Increase Proactive Disclosures

*The Department of Justice has long focused on the need for agencies to work proactively to post information online without waiting for individual requests to be received.*

*Please answer the following questions to describe the steps your agency has taken to increase the amount of material that is available on your agency websites. In addition to the questions below, you should also describe any additional steps taken by your agency to make and improve proactive disclosures of information.*

1. Provide examples of material that your agency has proactively disclosed during the past reporting year, including links to the posted material

The Agency's most significant proactive disclosure postings are SBA's complete loan level 7(a) and 504 data sets and data dictionary from January 1, 1990, to present found here:

https://www.sba.gov/about-sba/sba-performance/open-government/foia/frequently-requested-records/sba-7a-504-loan-data-reports

These data sets represent the agency's most frequently requested information.

In addition, SBA has also posted statistical information regarding the performance of its programs, as well as economic research data:

https://www.sba.gov/about-sba/sba-performance/performance-budget-finances

https://www.sba.gov/category/advocacy-navigation-structure/research-and-statistics

2. Beyond posting new material, is your agency taking steps to make the posted information more useful to the public, especially to the community of individuals who regularly access your agency's website?

Yes.

3. If yes, please provide examples of such improvements.

The agency has changed the visual appearance of the SBA.gov website. Larger font, easy-to-read white space v. lettering format, improved quality and relevancy of the SBA program content posted are all noticeable improvements. These improvements are a result of collaborative efforts by the Office of Communications and Public Liaison and the Office of the Chief Information Officer.

4. Please describe best practices used to improve proactive disclosures and any challenges your agency faces in this area.

The Agency has improved its Open Government and Open Data efforts to increase public access to the Agency's most frequently requested data sets. SBA has publicized its efforts through the Office of the Chief Information Officer's Open Government reporting to OMB, the OHA FOIA team's reporting to OIP, and the continued revitalization of the Agency's website.

## Section IV: Steps Taken to Greater Utilize Technology

*A key component of FOIA administration is using technology to make information more accessible. In addition to using the internet to make proactive disclosures, agencies should also be exploring ways to utilize technology in responding to requests.*

*Please answer the following questions to describe how your agency is utilizing technology to improve its FOIA administration and the public's access to information. You should also include any additional information that that describes your agency's efforts in this area.*

1. Is your agency leveraging technology to facilitate efficiency in conducting searches, including searches for emails? If so, please describe the type of technology used. If not, please explain why and please describe the typical search process used instead.

The majority of the agency's statistical data is posted online or is retrievable through electronic databases. Email searches are done by OCIO through the Microsoft Exchange Server and is coordinated by OGC.

FOIA professional staff and those with FOIA responsibilities now utilize Adobe Pro for review and redaction of records.

2. OIP issued guidance in 2017 encouraging agencies to regularly review their FOIA websites to ensure that they contain essential resources and are informative and user-friendly. Has your agency reviewed its FOIA website(s) during the reporting period to ensure it addresses the elements noted in the guidance?

Yes

3. Did your agency successfully post all four quarterly reports for Fiscal Year 2019?

Yes.

4. If your agency did not successfully post all quarterly reports, with information appearing on FOIA.gov, please explain why and provide your agency's plan for ensuring that such reporting is successful in Fiscal Year 2019.

N/A.

5. The FOIA Improvement Act of 2016 requires all agencies to post the raw statistical data used to compile their Annual FOIA Reports. Please provide the link to this posting for your agency's Fiscal Year 2018 Annual FOIA Report and, if available, for your agency's Fiscal Year 2019 Annual FOIA Report.

https://www.sba.gov/document/report--foia-annual-report

6. Please describe the best practices used in greater utilizing technology and any challenges your agency faces in this area.

N/A

## Section V: Steps Taken to Improve Timeliness in Responding to Requests and Reducing Backlogs

*The Department of Justice has emphasized the importance of improving timeliness in responding to requests. This section of your Chief FOIA Officer Report addresses both time limits and backlog reduction. Backlog reduction is measured both in terms of numbers of backlogged requests or appeals and by looking at whether agencies closed their ten oldest requests, appeals, and consultations.*

*For the figures required in this Section, please use the numbers contained in the specified sections of your agency's 2017 Annual FOIA Report and, when applicable, your agency's 2016 Annual FOIA Report.*

***A. Simple Track***

*Section VII.A of your agency's Annual FOIA Report, entitled "FOIA Requests – Response Time for All Processed Requests," includes figures that show your agency's average response times for processed requests. For agencies utilizing a multi-track system to process requests, there is a category for "simple" requests, which are those requests that are placed in the agency's fastest (non-expedited) track, based on the low volume and/or simplicity of the records requested.*

1. Does your agency utilize a separate track for simple requests? If your agency uses a multi-track system beyond simple, complex, and expedited to process requests, please describe the tracks you use and how they promote efficiency.

Yes, SBA only uses simple, complex and expedited multi-track system.

2. If your agency uses a separate track for simple requests, was the agency overall average number of days to process simple requests twenty working days or fewer in Fiscal Year 2019?

N0.

3. Please provide the percentage of requests processed by your agency in Fiscal Year 2019 that were placed in your simple track.

86%

4. If your agency does not track simple requests separately, was the average number of days to process all non-expedited requests twenty working days or fewer?

N/A.

***B. Backlogs***

*Section XII.A of your agency's Annual FOIA Report, entitled "Backlogs of FOIA Requests and Administrative Appeals" shows the numbers of any backlogged requests or appeals from the fiscal year. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.*

**BACKLOGGED REQUESTS**

5. If your agency had a backlog of requests at the close of Fiscal Year 2019, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2018?

Yes

6. If not, did your agency process more requests during Fiscal Year 2018 than it did during Fiscal Year 2017?

N/A

7. If your agency's request backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

8. If you had a request backlog please report the percentage of requests that make up the backlog out of the total number of requests received by your agency in Fiscal Year 2018. If your agency has no request backlog, please answer with "N/A."

2%

**BACKLOGGED APPEALS**

9. If your agency had a backlog of appeals at the close of Fiscal Year 2018, did that backlog decrease as compared with the backlog reported at the end of Fiscal Year 2017?

No

10. If not, did your agency process more appeals during Fiscal Year 2018 than it did during Fiscal Year 2018?

No

11. If your agency's appeal backlog increased during Fiscal Year 2019, please explain why and describe the causes that contributed to your agency not being able to reduce its backlog. When doing so, please also indicate if any of the following were contributing factors:

An increase in the number of incoming appeals.

A loss of staff.

An increase in the complexity of the requests received. If possible, please provide examples or briefly describe the types of complex requests contributing to your backlog increase.

Any other reasons – please briefly describe or provide examples when possible.

N/A

12. If you had an appeal backlog please report the percentage of appeals that make up the backlog out of the total number of appeals received by your agency in Fiscal Year 2019. If your agency did not receive any appeals in Fiscal Year 2018 and/or has no appeal backlog, please answer with "N/A."

20%

***C. Backlog Reduction Plans***

13. In the 2019 guidelines for Chief FOIA Officer Reports, any agency with a backlog of over 1000 requests in Fiscal Year 2018 was asked to provide a plan for achieving backlog reduction in the year ahead. Did your agency implement a backlog reduction plan last year? If so, describe your agency's efforts in implementing this plan and note if your agency was able to achieve backlog reduction in Fiscal Year 2019?

N/A

14. If your agency had a backlog of more than 1,000 requests in Fiscal Year 2018, what is your agency's plan to reduce this backlog during Fiscal Year 2019?

N/A

***D. Status of Ten Oldest Requests, Appeals, and Consultations***

*Section VII. E, entitled "Pending Requests – Ten Oldest Pending Requests, "Section VI.C. (5), entitled "Ten Oldest Pending Administrative Appeals," and Section XII.C., entitled "Consultations on FOIA Requests – Ten Oldest Consultations Received from Other Agencies and Pending at Your Agency," show the ten oldest pending requests, appeals, and consultations. You should refer to these numbers from your Annual FOIA Reports for both Fiscal Year 2015 and Fiscal Year 2016 when completing this section of your Chief FOIA Officer Report.*

15. In Fiscal Year 2019, did your agency close the ten oldest requests that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes

16. If no, please provide the number of these requests your agency was able to close by the end of the fiscal year, as listed in Section VII.E of your Fiscal Year 2016 Annual FOIA Report. If you had fewer than ten total oldest requests to close, please indicate that.

N/A

17. Beyond work on the ten oldest requests, please describe any steps your agency took to reduce the overall age of your pending requests.

N/A

**TEN OLDEST APPEALS**

18. In Fiscal Year 2019, did your agency close the ten oldest appeals that were reported pending in your Fiscal Year 2018 Annual FOIA Report?

Yes.

19. If no, please provide the number of these appeals your agency was able to close by the end of the fiscal year, as listed in Section VII.C.(5) of your Fiscal Year 2017 Annual FOIA Report. If you had fewer than ten total oldest appeals to close, please indicate that.

N/A

20. Beyond work on the ten oldest appeals, please describe any steps your agency took to reduce the overall age of your pending appeals.

N/A

**TEN OLDEST CONSULTATIONS**

21. In Fiscal Year 2019, did your agency close the ten oldest consultations that were reported pending in your Fiscal Year 2017 Annual FOIA Report?

N/A.

22. If no, please provide the number of these consultations your agency was able to close by the end of the fiscal year, as listed in Section XII.C. of your Fiscal Year 2018 Annual FOIA Report. If you had fewer than ten total oldest consultations to close, please indicate that.

N/A.

### *E. Additional Information on Ten Oldest Requests, Appeals, and Consultations & Plans*

23. Briefly explain any obstacles your agency faced in closing its ten oldest requests, appeals, and consultations from Fiscal Year 2018.

None

24. If your agency was unable to close any of its ten oldest requests because you were waiting to hear back from other agencies on consultations you sent, please provide the date the request was initially received by your agency, the date when your agency sent the consultation, and the date when you last contacted the agency where the consultation was pending.

N/A

### F. Success Stories

*Out of all the activities undertaken by your agency since March 2017 to increase transparency and improve FOIA administration, please briefly describe here at least one success story that you would like to highlight as emblematic of your agency's efforts. The success story can come from any one of the five key areas. As noted above, these agency success stories will be highlighted during Sunshine Week by OIP. To facilitate this process, all agencies should use bullets to describe their success story and limit their text to a half page. The success story is designed to be a quick summary of key achievements. A complete description of all your efforts will be contained in the body of your Chief FOIA Officer Report.*